

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

THOMAS E. PEREZ, SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR v. JOHN J. KORESKO, V, et al.	: : : : : : : : : : :	Civil Action No. 09-988(MAM)
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**RESPONSE OF JOHN J. KORESKO, V
TO COURT’S ORDER DATED NOVEMBER 6, 2013**

John J. Koresko, V (“Koresko”), by and through his undersigned counsel, hereby responds to the Court’s Order dated November 6, 2013 (the “Order”) requesting answers to certain questions, as follows:

1. What discovery, whether depositions or otherwise, do the parties need to complete for the final resolution of this matter? What schedule do you propose for completion of that discovery?

Koresko proposes that the next focus of this litigation be aimed at resolving the question of which REAL VEBA/SEWBPT plans are subject to ERISA and which are not. Once the parties have a clearer picture of the plans and assets at issue, litigation and discovery can and should progress as necessary to advance the matter toward expeditious resolution.

2. What action, if any, should the Court take in response to the IF’s report? For example, is a forensic accounting necessary at this stage in the litigation?

Koresko is not opposed to the retention of a forensic accountant and, in fact, believes that a forensic accounting would be in the best interests of all parties, including the plan participants and beneficiaries, and would aid in and expedite a determination as to the scope of trust and non-trust assets. Koresko does not object to the Independent Fiduciary retaining a forensic

accountant, but believes that any such forensic accounting firm should have a Philadelphia presence.

3. What action should the Court take with respect to the day-to-day administration of the Trusts until final resolution of this case? For example, is a third party administrator necessary?

Koresko does not believe that a third party administrator is necessary at this juncture. The Court has appointed The Wagner Law Group as the Independent Fiduciary “to administer the plans, employer arrangements, SEWBPT and REAL VEBA” [September 16, 2013 Order at ¶ 2] and the Independent Fiduciary should perform the duties for which it was retained. Moreover, at least until the ERISA and non-ERISA based plans are separated, appointment of a third party administrator contradicts the provisional nature of the Independent Fiduciary’s appointment.

4. How, if at all, should the Independent Fiduciary’s role in this case change in light of the conclusions and recommendations of the October 31, 2013 report?

As stated above, Koresko believes that the parties to this litigation should focus on the objective of separating those plans which are governed by ERISA from those which are not. Once that determination is made, Koresko believes that the Independent Fiduciary should, at the earliest possible date, relinquish control of the non-ERISA assets of the trusts. At such time, this litigation can proceed to resolution with respect to those plans properly subject to ERISA.

Respectfully submitted,

Dated: November 18, 2013

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CERTIFICATE OF SERVICE

I, Lawrence G. McMichael, hereby certify that on this 18th day of November, 2013, I caused a true and correct copy of the foregoing Response of John J. Koresko, V to the Court's Order Dated November 6, 2013 to be served electronically via the CM/ECF System and/or First Class Mail on the following counsel and parties of record:

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